

DEC 02 2008

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JOHN F. CONGOLAN, CLERK  
BY:  DEPUTY CLERK

ELISTON F. GEORGE,  
Plaintiff,

v.

GENE M. JOHNSON, et al.,  
Defendants.

Civil Action No. 7:08cv00577

MEMORANDUM OPINION

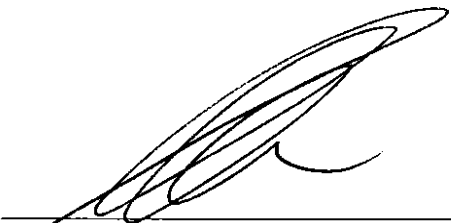
By: Samuel G. Wilson  
United States District Judge

Plaintiff Eliston F. George, a Virginia prisoner proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983 without prepayment of filing fees. The court liberally construes this filing as containing a request to proceed in forma pauperis. However, this court has dismissed at least three of George's previous complaints on the grounds that they were frivolous, malicious, or failed to state a claim.<sup>1</sup> Therefore, George may not proceed with this action unless he either pays the \$350.00 filing fee or shows that he is "under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

As George has neither prepaid the filing fee nor demonstrated that he is "under imminent danger of serious physical injury," the court dismisses his complaint without prejudice and denies his motion to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(g).<sup>2</sup>

The Clerk is directed to send a certified copy of this Memorandum Opinion and the accompanying Order to the plaintiff.

ENTER: This 1st day of December, 2008.

  
United States District Judge

<sup>1</sup> See George v. Young, Civil Action No. 7:02cv00818 (W.D. Va. Sept. 24, 2002) (dismissed pursuant to 28 U.S.C. § 1915A(b)(1)); George v. VDOC, Civil Action No. 7:04cv00113 (W.D. Va. Mar. 10, 2004) (dismissed pursuant to 28 U.S.C. § 1915A(b)(1)); George v. VDOC, Civil Action No. 7:04cv00137 (W.D. Va. Mar. 24, 2004) (dismissed pursuant to 28 U.S.C. § 1915A(b)(1)).

<sup>2</sup> The court notified George, by conditional filing order, that he may not file civil actions in this court unless he either pays the filing fee or demonstrates that he is under imminent danger of serious physical injury and gave him the opportunity to submit payment or otherwise amend his complaint. However, George neither paid the fee nor amended his complaint to show that he is under imminent danger of serious physical harm.